APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,743	03/21/2000	Steven Jeromy Carriere	QUAC0006	7120

22862   7590   08/17/2009
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ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
08/17/2009	PAPER

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/531,743
Filing Date: March 21, 2000
Appellant(s): CARRIERE ET AL.

_____
AOL LLC
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/27/2009 appealing from the Office action

mailed 12/02/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,799,063	Krane	08-1998
6,400,806	Uppaluru	06-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

2.   Claim 28 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply

with the written description requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to reasonably convey to one

skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention. Independent claim 28 have been newly amended

to recite "…, *unassisted by voice extensions and enhancements to said HTML*", the

applicant specification fails to provide support for this limitation. Furthermore, this

appears to be a negative limitation used to overcome the prior art. Regarding negative

limitations, MPEP states that: *"Any negative limitation or exclusionary proviso must*

have basis in the original disclosure. If alternative elements are positively recited in the

specification, they may be explicitly excluded in the claims. … **The mere absence of a**

positive recitation is not basis for an exclusion. *Any claim containing a negative*

limitation, which does not have basis in the original disclosure, should be rejected under

35 U.S.C. 112, first paragraph, as failing to comply with the written description

requirement". MPEG 2173.05(i) Clarification is respectfully requested. Appropriate correction is required by applicant.

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 28 recite "unassisted by *voice extensions* and enhancement to said HTML", the term *voice extensions render the claim indefinite*. For the purpose of examination, the claim language will be interpreted as best understood by examiner. Appropriate corrections are required by applicant.

Claim Rejections – 35 U.S.C. 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that

7.   are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

> 1. Determining the scope and contents of the prior art.
> 2. Ascertaining the differences between the prior art and the claims at issue.
> 3. Resolving the level of ordinary skill in the pertinent art.
> 4. Considering objective evidence present in the application indicating obviousness or unobviousness.

8.   Claims 28-30 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krane et al. US Pat. No. (5,799,063) in view of Uppaluru et al., US Pat. No. (6,400,806).

As per claims 28 and 33, Krane teaches a method of operating an interactive user operated Internet voice portal 7 having established multiple predetermined vertical domains of interest (i.e., talk web menu and book-marks describing a collection of web sites; See Col. 5, lines 39- 65); the domains having attributes within (i.e., the actual collection of web sites associated with each domain); responsive to a user placing a telephone call to the voice portal, identifying the user (See for example Col. 3, lines 42-57) and obtaining user selection of a vertical domain of interest (Col. 5, line 39); performing funneling operations (See for example Col. 3, lines 42-57, and Col. 6, lines 40-44) by applying speech recognition to user chosen attribute values (i.e., the selected web site of interest) where recognized answers are limited to contents of a vocabulary set (inherent with speech recognition); the user repeatedly choosing an attribute until a bottom level attribute is chosen (i.e., the desired web site is found; Col. 6, lines 40-44); conducting an internet search for prescribed types of information (i.e., search for a desired item in a store catalogue as is well known in Internet surfing; Col. 6, lines 40-44); audibly providing resultant information via the telephone call.

Krane lacks the specific teaching of building a vocabulary set containing top-level attribute values appropriate to the selected vertical domain of interest; repeatedly building an updated vocabulary set appropriate to the latest chosen attribute value.

Uppaluru teaches building vocabulary sets appropriate to a selected domain (See for example Col. 13, lines 24-30) and repeatedly updating the vocabulary set appropriate for a chosen attribute or service (See for example Col. 13, lines 9-23).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Krane to include the specific teaching of building a vocabulary set containing top-level attribute values appropriate to the selected vertical domain of interest, and repeatedly building an updated vocabulary set appropriate to the latest chosen attribute value, in view of Uppaluru, in order to provide words in the speech recognition system that are "specifically tailored to the words more commonly associated with the corresponding service" (See Uppaluru, Col. 13, lines 24-26).

In addition, Krane et al., fail to disclose, conducting an Internet search of _HTML_ non-voice sources (i.e. text) _unassisted by voice extensions and enhancements to said HTML_ and audibly providing resultant information to the user via the telephone call (i.e. voice or speech) and _applying one or more text patterns to a web page to identify said information and extract it; applying a plurality of rules to said information to construct grammatical sentences from said information_.

However, Uppaluru teaches conducting an Internet search of _HTML_ non-voice sources (i.e. text) _unassisted by voice extensions and enhancements to said HTML_ and audibly providing resultant information to the user via the telephone call (i.e. voice or speech), see (at least col.7 lines 10-65 col.8 lines 21-35 , col.12 lines 3-5) and _applying one or more text patterns to a web page to identify said information and extract it; applying a plurality of rules to said information to construct grammatical sentences from_

said information (see col.12 3-5). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teachings of Uppaluru into the disclosure of Krane in order to provide the user with the flexibility of searching the Internet and viewing the information via any conventional web page format for example HTML and in order to provide universal access to voice and speech files in order to allow widespread use of such files for performing speaker dependent speech recognition, (see col.2 lines 21-25).

Re claim 29: Krane anticipates the limitation of the funneling being performed if the voice portal has not previously stored any attribute value preferences of the user for a selected vertical domain of interest (i.e., the funneling occurs in Krane whether or not there are bookmarks stored on the system). The funneling operation is additionally performed if the voice portal has previously stored any attribute value preferences of the user for a selected vertical domain of interest, but the user has opted to override the stored attribute value preference (i.e., the funneling occurs in Krane if there are stored bookmarks, but the user chooses to choose another/different attribute in from the Talk Web menu).

Re claim 30: Regarding the limitation of the funneling operation being only performed if the voice portal has not previously stored any attribute value preferences of the user for the selected vertical domain of interest: it would have been obvious to one of ordinary skill in the art to modify Krane to include this limitation, in order to be able to find desired sites when the "Talk Web Menu" contains no listing of sites.

As per claims 34-35, the limitations of claims 34-35 are similar to the limitations of claims 29-30, therefore they are rejected based on the same rationale.

Further regarding claim 30, specifically the limitation of: "the operations further comprise, if the voice portal has previously stored any attribute value preferences of the user for the selected vertical domain of interest, instead of the funneling operation, performing an operation of conducting an Internet search for prescribed types of information pertaining to the stored attribute value preferences", the limitation is anticipated by Krane in that the bookmarks provide the attribute value preferences and the site associated with a selected bookmark anticipates the limitation of conducting an Internet search (i.e., the retrieving of the site) for information (i.e., the information on the site) pertaining to the stored attribute value preference (i.e., the selected bookmark).

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses them individually.

As per appellant's arguments filed on 04/27/2009, the appellant argues:

Argument A) the Appellant is traversing the 112 1st written description rejection (**see page 9 of AB**).

In response to argument A) the Examiner respectfully disagrees. In the Appeal Brief page 9, appellant directs the Office to page 27, line 24 to page 28 line 1 and page 29 lines 24-29 claiming to have support for "unassisted by voice extensions and enhancements to said HTML", after reviewing the specified pages above, the examiner still maintains his position in the prior action, specifically that applicant's specification

fails to provide support for this limitation. The portions relied upon above by the Appellant to overcome the written description rejection are mere examples for clarification which are the only way to perform the invention; furthermore page 29 lines 24-29 of appellant's specification recites "Moreover, such pages may be defined by a markup language or a programmable language such as Java, perl, java script, or any other suitable language", the languages mentioned by the Appellants specification (Java, perl, java script, or any other suitable language) are languages used to enhance or make modifications to an HTML page, this is contradicts what the Appellant is claiming "unassisted by voice extensions and ***enhancements to said HTML***". In addition, this appears to be a negative limitation used to overcome the prior art. Regarding negative limitations, MPEP states that: *"Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. … **The mere absence of a positive recitation is not basis for an exclusion.** Any claim containing a negative limitation, which does not have basis in the original disclosure, should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement"*. MPEP 2173.05(i) Clarification is respectfully requested. Appropriate correction is required by applicant.

Argument B) the Appellant is traversing the 112 2nd rejection (**see AB, middle of page 11**).

In response to argument B) the Examiner respectfully disagrees. Independent claim 28 recite "unassisted by *voice extensions* and enhancement to said HTML", this phrase renders the claims indefinite and it contradicts Appellant's specification; looking to appellant specification   page 29 lines 24-29 which recites "Moreover, such pages may be defined by a markup language or a programmable language such as Java, perl, java script, or any other suitable language", the languages mentioned by the Appellants specification (Java, perl, java script, or any other suitable language) are languages used to enhance or make modifications to an HTML page, this is contradicts what the Appellant is claiming "unassisted by voice extensions and ***enhancements to said HTML***", which also renders the claims indefinite. Therefore after reviewing the office maintain the 112 2nd paragraph rejection.

Argument C) Uppaluru does not teach "audibly providing resultant information to the user via the telephone call, unassisted by voice extensions and enhancements to said HTML" (**see AB, page 15**).

In response to argument C) the Examiner respectfully disagrees. Appellant is reminded that claims must be given their broadest reasonable interpretation. Uppaluru teaches "a system and method of the present invention extends World Wide Web (referred to herein as "www" or the "web") and Internet technology to provide universally accessible caller-specific profiles that are accessed by one or more IVR systems. The invention features a set of web pages containing information (components) formatted using MIME and hypertext markup language (HTML) standards with extensions for

voice information access and navigation. These web pages are linked using HTML
hyper-links that are accessible to users via voice commands and touch-tone inputs.
These web pages and components in them are addressable using HTML anchors and
links embedding HTML universal (uniform) resource locators (URLs) rendering them
universally accessible over the Internet. This collection of connected web pages are
referred to herein as the "voice web" and the individual pages are referred to herein as
"voice web pages". Each web page in the voice web contains a specially tagged set of
key words and touch tone sequences that are associated with embedded anchors and
links used for navigation within the web." (see col. 2 lines 25-46, also see at least col.
12 lies 3-5, col. 7 lines 4—46, col. 24 lines 15-25); i.e. presenting information to a user
using a text to speech via an HTML internet web page browser, which is not assisted by
voice extensions or enhancements; furthermore U. Therefore Krane in view of
Uppaluru still meets the scope of the limitation as currently claimed.

     Argument D) Uppaluru does not teach "applying one or more text patterns to a
web page to identify said information and extract it; applying a plurality of rules to said
information to construct grammatical sentences from said information" (**see AB, page
23**).

     In response to argument D) the Examiner respectfully disagrees. Appellant is
reminded that claims must be given their broadest reasonable interpretation. Uppaluru
teaches a system for retrieving the set of word recognition patterns associated with the
key words in the presented page from the user's speech profile; the system is also able

to match the active vocabulary and associated speaker dependent word pattern dynamically in a context sensitive manner (see col.3 lines 30-65). Furthermore, Uppaluru teaches the extraction of data from an e-mail using text to speech via an HTML web page browser (see at least col. 12 lines 3-5), the use of text to speech to extract information parses the text and presents the information in this case an e-mail to a user via text to speech i.e. applying one or more patterns to a web page to identify and extract information and applying a plurality of rules to said information to construct grammatical sentences from said information. Therefore Krane in view of Uppaluru still meets the scope of the limitation as currently claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/MUSSA SHAAWAT/
Examiner, Art Unit 3627
August 10, 2009

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